

**California State Department of Social Services
ICWA Workgroup**

**Indian Health Council, Inc.
Valley Center, CA 92082**

March 23, 2010

Minutes

- **Welcome/Introductions.** The previous meeting's minutes were reviewed and approved as written.
- **Legislative Update.** Kimberly Cluff, Attorney, Forman & Associates, presented the report. Even though there are a small number of ICWA cases, possibly 2% of cases, ICWA-related cases in the appellate courts are 20%. Such is the case of Noreen G where the court ruled that "The court, county welfare department, and the probation department have an affirmative and continuing duty to inquire whether a [*dependent*] *child* . . . is or may be an Indian child in all *dependency proceedings*" AB 2418 was introduced this year to extend the definition of an ICWA-eligible child to include an unmarried person who is under 21 years of age. The application of this definition also affects the tribe as the court can say that the tribe can no longer be a participant in the case. Additionally, AB 12 is the bill being used to implement the federal law P.L. 110-351 and would extend the provisions to also include nonminor dependents commencing January 1, 2012.
- **Administrative Office of the Courts Report.** Ann Gilmour, Attorney, Administrative Office of the Courts, presented a report.
 - **Spirit of the Law.** Vida Castaneda, Court Services Analyst, has completed the guide to help social workers and others respond when they encounter children and families that report American Indian/Alaska Native (AI/AN) ancestry yet find they are not from a federally recognized tribe.
 - **Frequently Asked Questions (FAQ).** The FAQ on the AOC webpage has been updated and includes topics such as "What can a non-attorney (i.e., tribal representative) do in court?" Answer: Should be allowed to provide evidence and question witnesses.
 - **Qualified Expert Witness.** AOC has prepared a document regarding the QEW in a question and answer format with information such as "What is a QEW under ICWA?" and "When is a QEW required?"
 - **Coordinated Tribal Assistance Solicitation.** This year the federal department of justice has changed the procedures for many tribal justice grants by packaging the grants into one large grant solicitation known as the Coordinated Tribal Assistance Solicitation (CTAS). This grant solicitation is

available to federally recognized tribes and the deadline is May 13, 2010. The AOC is available to provide a one-day workshop (in April) to provide technical assistance — one in the north and one in the south. The ICWA Workgroup members were asked to notify the AOC if the workshop is of interest to them. If there are sufficient interest and offers to host the event, then the AOC will work with the Tribal Law and Policy Institute to see what type of technical assistance can be provided.

- **Subcommittee Updates.**

- **AB 1325 Implementation Committees of the Permanency for Indian Children and Youth Subcommittee.** The ACL is with the Deputy Director awaiting signature so that the ACL can be published and placed online.
 - **Adoption Services Committee.** Nicolle Larkins presented this update to the workgroup. This committee has completed its meetings and will communicate by email for any discrepancies. This is the anchor committee which decided which tasks were needed and assigned to the subcommittees to accomplish.
 - **Regulations Committee.** Nicolle Larkins presented this update to the workgroup. The regulations were authorized to go through the fast track due to urgency ruling. Within the regulations, the requirement to consider a tribal customary adoption (TCA) will begin at the Disposition Hearing.
 - **Forms Committee.** Nicolle Larkins presented this update to the workgroup. Many of the forms to be used in TCA are with the AOC for which the Judicial Council must adopt rules of court and necessary forms to implement TCA as a permanent plan for Indian children before July 1, 2010. There are a handful of forms that will need to be revised that will be or are listed on the CDSS website.
 - **Data Committee.** Lee Ann Kelly presented this update to the workgroup. The committee was formed to assure that data is collected so that the AOC can present its report on AB 1325 to the Legislature on or before January 1, 2013. The committee met with the CWS/CMS Policy Unit, Adoptions Unit, Children & Youth Permanency Branch, in addition to the representatives on the ICWA Workgroup. The committee is working to tap into other data sources such as tribes, private adoption agencies and will utilize a survey online that can be completed by ICWA workers and private adoption agencies. Some questions the committee is asked: “How long does it take to achieve permanency?” and “How does one determine how many cases are ICWA eligible, for permanency and reunification?” A system change request has been submitted to expand CWS/CMS to include a field and a drop-down menu to identify TCA-specific information.
 - **Training Committee.** The AOC has begun training for the courts and counsels. Once the elements are agreed to by the other committees, training will progress. CalSWEC is in the process of including training on

their website, which will take time and expertise to incorporate into the university's website format. One concern that has surfaced is ICPC because AB 1325 does not address ICPC. CDSS staff and the AOC are addressing this issue. Soboba Band of Luiseño Indians and CalSWEC will post the training on their website.

- **ICWA Training Subcommittee.**

The ICWA Training Subcommittee is working with the Regional Training Academy (RTA) and collecting curricula and looking at identifying key elements to use in the development of the ICWA curriculum for social workers. We have met with the RTAs to do a crosswalk of training provided by central and southern areas and have completed a 4-hour training session that needs to be placed in modules. At the upcoming ICWA conference, the subcommittee will poll the audience to see if there is agreement to what the training should look like, what success in ICWA would look like, and how to get training into the counties' System Improvement Plans. CalSWEC will make this training available online, along with other resources such as videos.

AB 1325 Training. Prior to the ICWA conference, Tribal Star staff will prepare a Fact Sheet for county social workers and tribal social workers. Again, CalSWEC will make this training available on their website once it is converted to the university's format.

The next training is scheduled for April 6, 2010.

- **Division 31 Regulations Update.** Lee Ann Kelly presented this update. CDSS staff met with tribal and county representatives in four meetings for the purpose of gathering input and reviewing the proposed changes to the Division 31 regulations in order to implement ICWA provisions contained in SB 678. These regulations are to guide county social workers. Currently, Liz Sandoval and Maureen Geary are working on some legal language. CDSS is on the final review prior to sending the regulations to the CDSS Office of Regulations Development for approval prior to the regulations publication and public hearing.
- **ICWA Statewide Conference.** Maria Garcia, Pala Band of Mission Indians, presented the plans for the upcoming meeting. The conference is scheduled for June 21-22, 2010, and will be held at the Pala Casino Resort and Spa. They are working to finalize the program that will include the conference theme, keynote speakers in plenary sessions and breakout workshops. A "Save the Date" notice will be sent to the ICWA Workgroup by April 5th. Registration packets should go out after the conference committee meets on April 8th. There will be no registration fee.

- **Other Issues/Announcements.**

- Lee Ann Kelly mentioned that an email was received from a county counsel expressing a desire not to mention or offer payment to expert witnesses. By consensus, the workgroup agreed that the expert witness should be paid for their testimony in the same manner as any other expert witness is paid.
- Nancy Currie and Karen Kolb made an announcement that at the morning tribal caucus meeting the group decided by consensus that tribal social workers should be referred to as "Tribal Advocate/Social Workers".
- CILS will host the "CILS Tribal Courts" on May 19-21 at the Paskenta Band of Nomlaki Indians land in Orland, California.
- May 7, Central Summit (Tom Phillips).
- Heather Zenone announced that the IDRS is interviewing current and former foster care youth to talk about their experiences. She was available throughout the week at Rincon.
- May 7, Southern Summit, keynote speaker Jaiya John.
- Soboba's webmaster has left the tribe and the tribe is in the process of replacing the webmaster. This will result in a delay of getting the AB 1325 information up on their web page.

- **Next Workgroup Meeting.** The next meeting is scheduled for Tuesday, May 18, 2010, and will be held at CDSS Headquarters in Sacramento.